

REMARKS

In the Final Office Action dated October 5, 2006, claims 1-11 (all of the pending claims) were rejected. None of the claims are amended herein. Claims 1-11 (11 total claims; 3 independent claims) remain pending in the application.

An RCE was filed January 3, 2007 which the Examiner deemed to be non-responsive as it was not filed with a submission as required by 37 CFR 1.114. The final Office Action was dated October 5, 2006 with a shortened statutory period for reply of December 5, 2007, with a six-month statutory period for response that expired on April 5, 2007. Therefore, the following response is being filed with a Petition to Revive an application abandoned unintentionally and the appropriate fees.

Reconsideration of the application is respectfully requested in view of the following remarks.

Claim Rejections under §112

Claims 1-11 stand finally rejected under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement. The final Office Action asserted that independent claims 1, 9 and 11 recite the limitation “wherein said electronically controlled switch isolates said first battery from said second battery upon startup of said internal combustion engine” that is not presented in the disclosure as originally filed. Applicants respectfully traverse.

The isolation between the first and second batteries 16, 18 is accomplished by the electronically controlled switch 20 as shown in the Figure and described in the specification at paragraph [0011] which recites, “The switch 20 may comprise a transistor (FET, BJT, IGBT), electromechanical relay, thyristor (SCR, Triac), or any other electrical switching device known in the art, to isolate the auxiliary battery 18 from the ESS battery 16.” The limitation of “upon startup of said internal combustion engine” is supported in the specification beginning at paragraph [0013] which describes that any hybrid activity that requires a relatively large battery power discharge is called for, the ALI opens, so that during the current spikes or steady draws on the ESS battery 16, the accessories’ performance will not dip or undulate”. It is well known in the art that such events occur upon startup of an internal combustion engine.

Therefore it is respectfully asserted that the specification as originally filed provides support for the claim limitation. Accordingly, withdrawal of the rejection under 35 U.S.C. §112, first paragraph is respectfully requested.

Claim Rejections under §102(e)

Claims 1, 2, 4, 5 and 9-11 stand finally rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent no. 6,919,648 to Bolz et al., hereinafter, Bolz. The independent claims 1, 9 and 11 require isolation of the first and second batteries during startup of the internal combustion engine. This limitation is neither disclosed, nor claimed, in the Bolz reference. The final Office Action asserted that Bolz discloses that switch S3 performs isolation of first and second batteries. Switch S3 in Bolz establishes a connection between the batteries B1 and B2 as described at column 8, lines 17-19 but does not in fact isolate the batteries upon startup of the internal combustion engine as claimed in the present invention. The switch S3 in Bolz does not act alone in isolating the first and second batteries. For example, at column 9, lines 1-30, Bolz describes the states of each of switches S3 and S4. Only when S3 and S4 are both non-conducting is the battery B1 isolated from the battery B2. The final Office Action asserted that switch S4 cannot be conducting when S3 is conducting and therefore, the placement of S3 in the non-conducting position results in battery isolation. Applicants respectfully disagree. The disclosure of Bolz describes that S4 should not be conducting when S3 is non-conducting and not that S4 *cannot* be conducting. The disclosure of Bolz further describes that the switch configuration of S3 non-conducting and S4 conducting should be prevented. Therefore, additional modification is required in order to accomplish the invention as claimed in independent claims 1, 9, and 11 of the present invention. Further, it is respectfully asserted that there is no disclosure or teaching relative to the isolation of the batteries upon start up of the internal combustion engine in Bolz as claimed in the independent claims of the present invention.

It is respectfully asserted that the claims are not anticipated by Bolz as presented in the final Office Action and withdrawal of the rejection under 35 U.S.C. §102 is respectfully solicited.

Claim Rejections Under §103(a)

Claim 3 stands finally rejected under 35 U.S.C. §103(a) as being unpatentable over Bolz in view of Rose. Claim 6 stands finally rejected as being unpatentable over Bolz in view of Beyn. Claim 7 stands finally rejected as being unpatentable over Bolz in view of Kodama. Claim 8 stands finally rejected as being unpatentable over Bolz in view of Kenyon.

Singularly, the Bolz reference fails to teach or disclose the elements of the independent claims 1, 9 and 11. For at least the above reasons, it is respectfully asserted that even if Bolz were combined with other references as indicated in the final Office Action, the combination cannot possibly teach or disclose the present invention. Therefore, it is respectfully asserted that dependent claim 3 is not unpatentable over Bolz in view of Rose, claim 6 is not unpatentable over Bolz in view of Beyn, claim 7 is not unpatentable over Bolz in view of Kodama, and claim 8 is not unpatentable over Bolz in view of Kenyon. Accordingly, Applicant respectfully requests the withdrawal of the §103(a) rejections of claims 3, 6, 7 and 8.

In conclusion, for the reasons given above, all claims now presently in the application are believed allowable and such allowance is respectfully requested. If for some reason Applicant has not requested a sufficient extension of time and/or has not paid a sufficient fee for this Response and/or for the Petition to Revive this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-2091 for any fee which may be due.

Respectfully submitted,

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